IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 32748 of 2006(W)

PETITIONER:

C. ACHUTHAN, S/O. THACHU NAIR,
ASWATHI, THOTTADA, KANNUR-7.

BY ADV. SRI.T.M.SREEDHARAN
SRI.V.P.NARAYANAN

RESPONDENTS:
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1. THE TAHSILDAR, KANNUR.

2. THE REVENUE DIVISIONAL OFFICER,
THALASSERY.

3. THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 32748 OF 2006

Dated this the 12th day of December, 2006

J U D G M E N T

Petitioner is challenging the order passed by the appellate authority under the Kerala Building Tax Act pursuant to Exhibit P2 judgment.

2. According to the learned counsel appearing for the petitioner the appellate authority has not considered the materials on record which would show that the source of construction flows from different parties and he referred to the observation of the order passed by the RDO wherein, it is mentioned that petitioner has produced bank accounts. But the learned Government Pleader appearing on behalf of respondents would submit that there is nothing on record to show that the other persons have shared the cost of construction. This is a disputed question of fact. Petitioner has an alternate remedy of revision before the District Collector. However, the learned counsel appearing for the petitioner express an apprehension that in view of the circular issued by the AG's office, unless there is a registered document agreeing to share the cost of construction,

the statutory authority based on circular are not considering the other independent evidence in the case.

3. After hearing both sides, following order is issued.

Since the petitioner has got an alternate effective remedy, he can avail the same and in case a revision is filed, the revisional authority shall consider the entire materials on record and find whether the source of construction flows from different parties or from the petitioner alone de hors the circular issued in the matter and render a decision. If the petitioner prefers a statutory revision along with a copy of this judgment, the statutory authority shall dispose of the same in accordance with law and subject to what is stated above.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp